

DRAFT AMENDMENTS dated 12/22/2016

Zoning Ordinance

City of Manchester, NH

In Board of Mayor and Aldermen

Passed to be enrolled February 7, 2001

Passed to be ordained February 7, 2001

CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

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Amended through July 6, 2010

**MANCHESTER ZONING ORDINANCE
MANCHESTER, NEW HAMPSHIRE
EFFECTIVE 02-07-01**

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ARTICLE 3. DEFINITIONS

3.01 Word Usage.

For the purpose of this Ordinance, certain terms and words shall have the meaning given here. Words used in the present tense include the future; the singular number includes the plural, and the plural includes the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered," to be used or occupied; the words "building," "structure," "lot," "land" or "premise" shall be construed as though followed by the words "or any portion thereof;" and the word "shall" is always mandatory and not merely directory.

3.02 Words and phrases not defined.

Terms and words not defined herein but defined in the Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have their common meaning unless otherwise stated.

3.03 Definitions of terms. (Rev. 9/22/09)

Building: Any structure used for, or intended for, supporting or sheltering any use or occupancy.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Congregate Housing: Multifamily housing or other dwelling units serving individuals who require on-site services that support independent living, including, at a minimum, communal dining facilities. Congregate housing may be characterized by on-site personal care services, housekeeping and linen service, and the supervision of self-administered medication, but excluding 24-hour nursing care.

Density: The number of dwelling units per unit of buildable land area.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. *(For flood hazard management purposes.)*

Development, New: An activity which results in:

- a. The creation of a new dwelling unit or units; or
- b. The conversion of a lawfully existing use, or additions thereto, which would result in a net change in the number of dwelling units; or
- c. The construction of new non-residential facilities, additions to existing non-residential facilities, or conversion of property that results in a net increase in the gross floor area of a non-residential use; or
- d. Subdivisions and site plans for the purpose of assessing an Impact Fee.

(For impact fee assessment purposes)

Dwelling: A building or portion thereof used exclusively for residential occupancy, including single family, two family and multifamily dwellings, but not including hotels, lodging facilities, or rooming houses.

Dwelling Unit: One or more rooms containing private bath, cooking and kitchen facilities, and sleeping quarters for the use of one or more individuals living as a single housekeeping unit.

Dwelling, Single Family: A detached building used exclusively for occupancy by one (1) family.

Dwelling, Two-Family: A detached building used exclusively for occupancy by two (2) families living independently of one another.

Dwelling, Multifamily: A building or portion thereof containing three (3) or more dwelling units, whether in common ownership or owned as a condominium or cooperative.

Feepayer: A person applying for the issuance of a building permit which would create new development. *(For Impact Fee assessment purposes)*

Floor Area, Gross: The sum of the areas of the several floors of a building, including horizontal areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include unenclosed porches, or attics not used for human occupancy, or any such floor space intended and designed for accessory heating and ventilation equipment.

Gross Leasable Area (GLA): The total floor area for which the tenant pays rent and that is designed for tenant occupancy, excluding public or common areas and malls, utility rooms, and stairwells.

Lodging House (also Boarding House or Rooming House): A house, building or portion thereof containing one (1) or more rooms that lack cooking facilities and which do not constitute dwelling units, that are provided as living quarters for tenants, with or without the provision of meals, on a weekly or monthly basis.

Lot: A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Lot of Record: A lot described by deed, survey, or subdivision plat and so recorded with the Hillsborough County Registry of Deeds.

Manufactured Housing (also manufactured home): Any structure transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built

housing. For floodplain management purposes, the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.

Manufactured Housing Park: The subdivision of a tract of land into sites, lots or other leaseholds which provide for the long-term placement of manufactured housing, supported by private, centrally managed improvements, services and facilities for the residents therein.

Manufactured Housing Subdivision: A subdivision of land to create individually owned lots reserved exclusively for manufactured housing units.

Modular Home: A factory-built home, other than a manufactured home, which meets all of the following requirements: 1) it is designed only for erection or installation on a site-built permanent foundation; 2) it is not designed to be moved once so erected and installed; and 3) it is designed and manufactured to comply with the City of Manchester Building Code in effect at the time of installation.

Nursing Home: A facility which provides basic domiciliary services (room, board and laundry) for two or more persons and 24-hour nursing care with medical supervision provided by licensed medical and nursing practitioners.

Owner: Any person, group of persons, firm or firms, corporation or corporations, or other legal entity having title to, or sufficient proprietary interest in, the land sought to be subdivided or developed.

Public Capital Facilities: Facilities and equipment owned, maintained or operated by the City of Manchester or the Manchester School District, which are listed in the city of Manchester's adopted Impact Fee schedules. *(Associated with the administration of Impact Fees)*

Structure: Any combination of materials for occupancy or use constructed, erected or installed which requires location on the ground or attachment to something having a location on the ground such as a building, bridge, tower, framework, tank, tunnel, tent, stadium, platform, shelter, pier, wharf, bin, sign, fences and retaining walls over six (6) feet in height, or the like.

Substantial Improvement *(for Flood Hazard Area Management purposes)* Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of an "historic structure," provided

that the alteration will not preclude the structure's continued designation as an "historic structure."

Use, Accessory: A use which exists on the same lot as the principal use of the property to which it is related, and which is customarily incidental and subordinate to the principal use.

Use, Principal: The main or primary purpose or purposes for which a structure or lot is designed, arranged or intended or for which they may be used, occupied or maintained under this Ordinance consistent with Article 5 of this Ordinance, Table of Principal Uses.

ARTICLE 13. IMPACT FEES

Section 13.01 Authority and purpose.

These provisions are established pursuant to New Hampshire RSV 674:21,V. The provisions of the Article are intended to: assist in the implementation of the City of Manchester Master Plan; provide for the planning for and provision of public capital facilities necessitated by the growth of the City of Manchester; and assess an equitable share of the growth-related cost of new and expanded public capital facilities to new development, in proportion to the facility demands created by that development. Facilities which are eligible for inclusion under this Ordinance are specifically enumerated under NH RSA 674:21, V and are more specifically limited to those facilities identified in Impact Fee Schedules adopted by the Board of Mayor and Aldermen.

13.02 Findings.

A. General. The City of Manchester, through its Board of Mayor and Aldermen and Planning Board, has adopted a Master Plan and capital improvements program.

B. Purpose. The City of Manchester is responsible for and committed to the provision of public facilities and services, at standards which support and protect the public health, safety and welfare.

C. Method of apportioning capital costs to new development. Calculation methodologies for Impact Fees, as established in reports by the Planning Board, represent fair, rational, and proportional methods of allocating capital facility costs to new development. Based on the methodologies, Impact Fees will not exceed the costs of:

1. Providing additional public capital facilities necessitated by the new developments paying Impact Fees; or
2. Compensating the City of Manchester for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.

13.03 Imposition of Public Capital Facilities Impact Fee.

A. Assessment of Impact Fee by Director of Planning and Community Development Department. Any person or firm, who wishes to construct New Development within the City of Manchester, is hereby required to pay a Public Capital Facilities Impact Fee in the manner and amount set forth in Section 13.05 of this Ordinance. The City of Manchester Planning and Community Development Department shall assess the amount of the Public Capital Facilities Impact Fee and the Impact Fee shall be paid prior to the issuance of a Certificate of Occupancy.
(Rev. 4/21/09)

13.04 Computation of Impact Fee. (Rev. 9/7/04)

The amount of the Public Facilities Impact Fee shall be listed in the Impact Fee Schedules adopted by the Board of Mayor and Aldermen and prepared in accordance with a methodology report adopted by the Planning Board. Adopted Impact Fee Schedules are contained in Article 13.14 of the Zoning Ordinance.

In the case of New Development created by the conversion or modification of an existing use, the Impact Fee shall be the net positive increase in the Impact Fee assessed for the new use as compared to the highest Impact Fee that was or would have been assessed for the previous use in existence on or after the effective date of this Article.

13.05 Payment of Impact Fees.

The assessed Impact Fee shall be paid to the City of Manchester Planning and Community Development Department prior to the issuance of a Certificate of Occupancy for New Development.

13.06 Administration of funds collected.

A. Individual facility accounts required. All Impact Fees collected shall be promptly transferred for deposit in individual Public Capital Facilities Impact Fee Accounts for each of the facilities for which Impact Fees are assessed, and shall be used solely for the purposes specified in this Article. Impact Fee accounts shall be special revenue fund accounts and under no circumstances shall such revenues accrue to the General Fund.

B. Custody of Impact Fee accounts and release of funds. The City Finance Director shall have custody of all Impact Fee accounts, and shall pay out the same only upon authorization by the Board of Mayor and Aldermen.

C. Record keeping. The City Finance Director shall record all Impact Fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which Impact Fees have been paid under this Ordinance for a period of at least six (6) years.

D. Annual report. At the end of each fiscal year, the City Finance Director shall make a report to the Board of Mayor and Aldermen, giving a particular account of all Public Capital Facilities Impact Fee transactions during the year.

E. Use of funds. Funds withdrawn from the Public Capital Facilities Impact Fee Accounts shall be used solely for the purpose of acquiring, constructing, expanding or equipping those public capital facilities identified in the Impact Fee Schedule.

F. Application to debt service. In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or

are issued for advanced provision of capital facilities identified in this Article, Impact Fees may be used to pay debt service on such bonds or similar debt instruments.

13.07 Refund of Impact Fees paid.

The owner of record of property for which an Impact Fee has been paid shall be entitled to a refund of that Impact Fee, plus accrued interest where: (1) The Impact Fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the final payment of the Impact Fee; or (2) The City has failed, within the period of six (6) years from the date of the final payment of such Impact Fee, to appropriate the non-Impact Fee share of related capital improvement costs.

13.08 Other public improvements.

Payment of a Public Capital Facilities Impact Fee does not restrict the City or the Planning Board in requiring other payments, including such payments relating to the cost of extensions of water and sewer mains or the construction of roads or streets or other infrastructure and facilities as may be required by the subdivision or site plan review regulations.

13.09 Exemptions and waivers.

A. Exemptions. The following uses are exempt from selected Impact Fees:

1. Those dwelling units within residential developments in which occupancy will be legally and permanently restricted to persons age 62 and over in accordance with federal law are exempt from school Impact Fees.
2. Single Room Dwelling units that have less than 350 Sq. Ft. of Gross Floor Area are exempt from School Impact Fees.

B. Waivers. The Planning Board may grant a full or partial waiver of an Impact Fee only in the following instances:

1. Land and/or public capital facility improvements may be offered by a feepayer as total or partial credit toward the Impact Fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board and must meet the needs of the specific public facilities for which the Impact Fees are adopted.
2. Improvements which would normally be required by the Planning Board under subdivision or site plan regulations shall not be considered eligible under this section.
3. Where documentation and/or legally enforceable mechanisms are provided to demonstrate to the satisfaction of the Planning Board that a proposed use will impose no or substantially reduced demands on Public Capital Facilities, the

Planning Board may reduce or waive an Impact Fee. The documentation and/or legally enforceable mechanisms shall be submitted to the Planning Board in writing.

C. Application for Impact Fee Waivers. The Planning Board may consider a request for Impact Fee waiver after a public hearing duly noticed in conformance with section 4.9 **Public Hearing** of Subdivision and Site Plan Review Regulations. The Planning Board shall adopt an application fee to cover the costs of administrative expenses and plan review consistent with its application procedures. Applications for Impact Fee Waivers shall be made on the appropriate application form available at the Planning and Community Development Department and shall include all materials required by the relevant appendix. The applicant for an Impact Fee waiver shall prepare and submit a written analysis of the potential demand on Public Capital Facilities of the New Development activity. All costs incurred by the City for the review of such study shall be paid by the applicant.

13.10 Appeals.

Any person aggrieved by the application of this Article may appeal therefrom to the Superior Court as provided for in NH RSA 677:15.

13.11 Premature and scattered development.

Nothing in this Ordinance shall be construed so as to limit the authority of the Manchester Planning Board to provide against development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the City of Manchester Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

13.12 Periodic review.

The Impact Fee Schedule shall be reviewed annually by the Planning Board, using the adopted "Methodology" reports. Such review may result in recommendations for adjustment to one or more of the Impact Fees based on the most recent data, as may be available from the Bureau of the Census, local property assessment records, market data reflecting interest and discount rates, or current construction cost information for public capital facilities, etc. The Planning Board shall furnish its recommendations to the Board of Mayor and Aldermen, who shall have the authority to change the Impact Fee Schedule.

13.13 Effect on prior agreements for payment of Impact Fees

The provisions of this Article shall supersede any Impact Fees which are unpaid as of the effective date of this Ordinance.

13.14 Impact Fee Schedules

The following Impact Fee Schedules have been adopted by the Board of Mayor and Aldermen.

MANCHESTER IMPACT FEE SCHEDULES

A. SCHOOL IMPACT FEE (Applies only to Residential New Development)

Type of Structure:	Fee per Dwelling Unit
Single Family Detached	\$ 4,589
Townhouse (Attached)	\$ 1,104
Two Family	\$ 3,739
Three or More Unit (Multifamily)	\$ 3,125
Manufactured Housing	\$ 2,301
Accessory Dwelling Units	\$ 1,530
Dwellings (1 or 2 units) in Upper Stories	\$ 945
Single room dwelling units of 350 to 450 Sq. Ft.	\$ 508

B.1. RESIDENTIAL FIRE DEPARTMENT IMPACT FEE

Type of Structure:	Fee per Dwelling Unit
Single Family Detached	\$ 571
Townhouse (Attached)	\$ 511
Two Family	\$ 589
Three or More Unit (Multifamily)	\$ 512
Manufactured Housing	\$ 525
Accessory Dwelling Units	\$ 190
Dwellings (1 or 2 units) in Upper Stories	\$ 512
Single room dwelling units of 450 Sq. Ft. or less	\$ 166

B.2. NON-RESIDENTIAL FIRE DEPARTMENT IMPACT FEE

Non-Residential Use Category	Fee per Gross Square Foot
Retail, Lodging, Food Service, Entertainment	\$ 0.53
Offices including Banks	\$ 0.20
Other Commercial & Institutional	\$ 0.35
Industrial, Warehouse, Transportation, Storage	\$ 0.05